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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,202	01/16/2001	James E. Mathews	03797.00090	6561

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EXAMINER

NGUYEN, JENNIFER T

ART UNIT	PAPER NUMBER
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2674

DATE MAILED: 11/18/2003

*9*

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/759,202

Applicant(s)

MATHEWS ET AL.

Examiner

Jennifer T Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This office action is responsive to amendment filed on 08/06/2003.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 10-12, 16-26, 29-31, and 35-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Agulnick et al. (U.S. Patent No. 5,347,295).

Regarding claims 1, 20 and 39, referring to Figs. 1-17, Agulnick teaches a method for detecting an in air gesture comprising step of: determining whether a digitizing pen (4) is not in contact with a digitizing writing surface (10); determining whether the digitizing pen (4) is in motion with respect to the digitizing writing surface (10); recording positional information of the digitizing pen (4) with respect to the surface of the digitizing writing surface (10) within a moving buffer (not shown) when the digitizing pen (4) is determined to not be in contact with the digitizing writing surface (10) and when the digitizing pen (4) is

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determined to be in motion with respect to the digitizing writing surface (10), the moving buffer recording a predetermined amount of positional information spanning a predetermined amount of time while the digitizing pen (4) is in motion and not in contact with the digitizing writing surface (10); determining when the digitizing pen (4) has stopped motion with respect to the surface of the digitizing writing surface (10) while the digitizing pen (4) is not in contact with the digitizing writing surface (10); and determining whether positional information recorded in the moving buffer corresponds to a predetermined in-air gesture (i.e., predefined gesture shapes) that can be made with the digitizing pen (4) (abstract, col. 3, lines 22-66, col. 6, lines 11-68, from col. 8, line 10 to col. 9, line 61, and col. 17, lines 61-67).

Regarding claims 2, 21 and 40, Agulnick further teaches displaying a predetermined user interface panel when the positional information recorded in the moving buffer corresponds to a predetermined in-air gesture that can be made with the digitizing pen (4) (Fig. 45, col. 8, lines 10-58).

Regarding claims 3-7 and 22-26, Agulnick further teaches the in-air gesture is a down spike motion, up spike motion, right spike motion, left spike motion (Fig. 45, col. 8, lines 10-58).

Regarding claims 10 and 29, Agulnick further teaches a starting point and an ending point, and wherein the step of determining whether positional information recorded in the moving buffer corresponds to the predetermined in-air gesture is based on a relative position of the starting point with respect to the ending point (col. 2, lines 6-17 and col. 17, lines 2-60).

Regarding claims 11, 12, 30 and 31, Agulnick further teaches positional information recorded in the moving buffer corresponds to a predetermined in-air gesture is based on a detected motion shape and motion size (col. 19, lines 20-21, lines 30-33).

Regarding claims 16 and 35, Agulnick further teaches the digitizing pen (4) is not in contact with the digitizing writing surface (10) includes a step of receiving an input indicating that the digitizing pen (4) is in a hovering state (from col. 8, line 26 to col. 9, line 6).

Regarding claims 17-19, and 36-38, Agulnick further teaches sending a predetermined sequence of characters to an application program when the positional information recorded in the moving buffer corresponds to a predetermined in-air gesture that can be made with the digitizing pen (4) (from col. 8, line 26 to col. 10, line 43).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 14 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agulnick et al. (U.S. Patent No. 5,347,295) in view of Yoshida et al. (5,502,803).

Regarding claims 14 and 33, Agulnick differs from claims 14 and 33 in that he does not specifically teach the digitizing pen and digitizing writing surface are electromagnetic devices. However, Yoshida teaches digitizing pen and digitizing writing surface are electromagnetic devices (col. 8, lines 19-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the digitizing pen and digitizing writing surface are electromagnetic devices as taught by Yoshida in the system of Agulnick in order to provide better display system.

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6. Claims 15 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agulnick et al. (U.S. Patent No. 5,347,295) in view of Black (U.S. Patent No. 6,307,956).

Regarding claims 15 and 34, Agulnick differs from claims 15 and 34 in that he not specifically teach the digitizing pen and digitizing writing surface are optical devices. However, referring to Figs. 1B and 2A, Black discloses digitizing pen and digitizing writing surface are optical devices (col. 19, lines 3-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the digitizing pen and digitizing writing surface are optical devices as taught by Black in the system of Agulnick in order to provide a fine line pattern or image on the resist surface.

7. Claims 8, 9, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agulnick et al. (U.S. Patent No. 5,347,295) in view of Altman et al. (U.S. Patent No. 6,535,897).

Regarding claims 8, 9, 27 and 28, Agulnick differs from claims 8, 9, 27 and 28 in that he does not specifically teach a predetermined amount of positional information is about 200 points of coordinate information and a predetermined amount of time that positional information is recorded in the moving buffer is about 1 second. However, Altman teaches a predetermined amount of positional

information is about 200 points of coordinate information and a predetermined amount of time that positional information is recorded in the moving buffer is about 1 second (col. 35, line 65 to col. 36, line 6). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the predetermined amount of positional information is about 200 points of coordinate information and the predetermined amount of time that positional information is recorded in the moving buffer is about 1 second as taught by Altman in the system of Agulnick in order to reduce the waiting time for execution the command.

8. Claims 13 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agulnick et al. (U.S. Patent No. 5,347,295).

Regarding claims 13 and 32, Agulnick differs from claims 12 and 32 in that he does not specifically teach a predetermined in-air gesture is based on a detected motion speed. However, it would have been obvious to obtain the predetermined in-air gesture is based on a detected motion speed in order to provide easy and quick access to the system functionality.

9. Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.



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10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zetts et al. (U.S. Patent No. 5,864,635) teaches distinguishing gestures from handwriting in a pen-based computer by stroke analysis.

Beernink et al. (U.S. Patent No. 5,612,719) teaches gesture sensitive buttons for graphical user interfaces.

Anderson et al. (U.S. Patent No. 5,784,504) teaches disambiguating input strokes.

Zetts et al. (U.S. Patent No. 5,862,256) teaches distinguishing gestures from handwriting in a pen-based computer by size discrimination.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jennifer T. Nguyen** whose telephone number is **703-305-3225**. The examiner can normally be reached on Mon-Fri from 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richard A Hjerpe** can be reach at **703-305-4709**.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, DC. 20231

**Or faxed to: 703-872-9306 (for Technology Center 2600 only)**

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Hand-delivered responses should be brought to Crystal Park II, 2121

Crystal Drive, Arlington, VA, sixth-floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the Technology Center 2600 Customer Service Office whose telephone number is 703-306-0377.

Jennifer T. Nguyen  
10/27/03



RICHARD HJERPE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600